IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 450 (MS) OF 2004

Ashok Kumar,
S/o Sri Laxmi Chandra,
Aged about 26 years,
R/o Bhogpur, Post-Muzafarabad,
District-Saharanpur. .....Petitioner.

Versus

1. State of Uttaranchal through its Secretary Transport, Civil Secretariat, Dehradun.
2. State Transport Appellate Tribunal, Uttaranchal, Dehradun.
3. Regional Transport Authority, Dehradun.

.....Respondents.

Dated: 22.06.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Ashish Joshi, Advocate for the petitioner and Standing Counsel for the respondent nos. 1 to 3.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 16.01.2004 passed by the State Transport Appellate Tribunal. Further prayer has been made for a writ of mandamus directing the respondents to issue the permanent stage carriage permit to the petitioner on the route in question.

Briefly stated, the State Govt. vide notification dated 13.10.192 invited objection in respect of modified scheme and the Transport Authority vide order dated 26.06.1997, approved the notification and the notified portion of the route

i.e. route known as Dehradun to Prem Nagar has been de-notified.

Against the aforesaid order, Dehradun-Dakpatthar Motor Union filed a Writ Petition No. 3108/1997 before the High Court of Allahabad, Lucknow Bench and the Hon'ble Court pleased to pass a stay order on 12.09.1997 stating that no permit be issued till the next date of hearing, but thereafter the Hon'ble High Court vide order dated 10.12.1998 amended the aforesaid stay order dated 12.09.1997 in the manner that if any permit is granted and issued it shall be subject to further orders of final decision of the writ petition.

In the light of the order passed by the Allahabad High Court, the R.T.A. decided to grant permits on the route in question subject to the final decision of the Hon'ble High Court.

Subsequently, the petitioner applied for grant of a permit on 18.12.1997 and his application was in the agenda and the R.T.A. Dehradun considered in the meeting held on 08.05.1998, but no decision was given in the meeting.

The petitioner moved an application on 18.12.1997 giving details of his merits and qualification, but the R.T.A. did not consider the claim of the appellant.

Thereafter, number of times the petitioner approached the authority concerned in order to know the status of his application, but no information was given to the petitioner.

The petitioner has submitted that again when he visited the Secretary, R.T.A. Dehradun on 30.05.1998, he found in the notice board that the R.T.A. has granted permits to all the applicants on Dehradun-Vikasnagar-Dakpatthar and allied routes subject to the condition that only 20 permits will be issued on the basis of first come first serve and the persons having vehicles not more than 10 years old will be issued

permits and it was also notified about issuance of permits in the last date 15.06.1998 has been given.

Immediately, on seeking the aforesaid notice on 30.05.1998, the appellant met the Secretary R.T.A. Dehradun on 04.06.1998 and filed an application with request to grant permit in his favour because he is having a Vehicle No. HNE 7130 of 1987 model and side by side it was also requested that the appellant will place another vehicle of the required model after some time, because many vehicles of older than 15 years and 16 years model are plying on the route and the condition for placing 10 years old model vehicle on the route is not applicable on the route.

The appellant has been pursuing for issuance of a permit in pursuance of order dated 08.05.1998, but no heed was given and it was asked that since only 20 permits are to be issued, therefore, it is not possible to issue permit in favour of the appellant in respect of a vehicle of 1987 model.

Aggrieved by the condition mentioned in the order passed by the R.T.A. dated 08.05.1998 and against the refusal for grant of permit to the petitioner, he filed an appeal before the State Transport Appellate Tribunal U.P., Lucknow bearing No. 35 of 1999. The Secretary RTA Dehradun filed his reply in the aforesaid appeal.

After hearing both the parties, the S.T.A.T. Dehradun has rejected the appeal filed by the petitioner vide order-dated 16.01.2004. Relevant portion of the order is quoted below:-

"जैसा कि अपील में अपीलार्थी ने स्वयं स्वीकार किया है कि उसके पास 10 साल से कम पुरानी गाड़ी आ0टी0ए0 के द्वारा आदेश पारित करने के दिन नहीं थी और ना ही जो समय सीमा आर0टी0ए0 द्वारा निर्धारित की गई थी, उसमें भी कोई गाड़ी अपीलान्ट नहीं ला सका।

इस तरह से मैं इस निष्कर्ष पर पहुँचता हूँ कि अपीलान्ट ने स्वयं आर0टी0ए0 द्वारा पारित आदेश का अनुपालन नहीं किया

है, इसलिये मेरे विचार से अपील बलहीन है और निरस्त होने योग्य है।

अपील निरस्त की जाती है। अधीनस्थ प्राधिकरण की पत्रावली वापस भेजी जाय। पत्रावली दाखिल दफ्तर हो।"

Whereas om a so,o;ar case, the S.T.A.T. has passed on the same day i.e. on 16.01.2004 to the following effect:-

"उपरोक्त प्रकार 20 परमिट जारी हो जाने के पश्चात शेष प्रार्थना पत्रों की स्वीकृति स्वतः समाप्त हो जायेगी।

अपील आंशिक रूप से स्वीकार की जाती है। प्रश्नगत आदेश इस हद तक परिवर्तित किया जाता है, कि यदि अपीलान्ट आ0टी0ए0 द्वारा निर्धारित नियमों एवं शर्तो का पूर्ण रूप से पालन करता है तो उसे एक परमिट उपरोक्त मार्ग पर जारी कर दिया जाय।

In view of the above, the matter is sent back to the S.T.A.T., who shall pass order in accordance with the order passed in Appeal No. 1 of 2003 expeditiously within a period of two months.

Writ petition is disposed of in accordance with the order passed by the appellate tribunal. No order as to costs.

(Rajesh Tandon, J.)

22.06.2006
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